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Rocco Fortte

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EXAMINER

AULAKH, CHARANJIT

ART UNIT

PAPER NUMBER

1625

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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



### **DETAILED ACTION**

1. According to paper filed on Dec. 15, 2009, the applicants have canceled claims 29 and 35 and furthermore, have amended claims 23-25, 28, 30, 33, 34, 36 and 38-42.
2. Claims 23-28, 30-34 and 36-43 are now pending in the application.

### ***Response to Arguments***

3. Applicant's arguments filed on Dec. 15, 2009 have been fully considered but they are not persuasive regarding objection for containing non-elected subject matter. According to the elected group, the value of variable Y is Carbon only. The applicants need to delete the value --- or a single bond --- for Y. Similarly, the value of variable CY2 should be 6-membered heteroaryl ring containing only one N atom according to the elected group. The applicants need to amend claims 23, 33 and 36.

### **NEW GROUNDS OF REJECTION**

#### ***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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5. Claims 24, 30, 32, 33 and 36 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 30, the value of variable R2 is not defined.

In claim 33, for the values of variable Cy1, and Cy2, metal M is mentioned. However, there is no metal M in formula (4). Also, in Cy1, y group is mentioned. It should be Y'. Similarly, in Cy2, atom D is mentioned. It should be D'.

In claim 33, for the value of variable Cy3, Y group is mentioned. It should be Y'.

In claim 36, the values of variables Y' and L are not defined.

Claim 24 recites the limitation "phosphorous for the value of variable D " in claim 23.

There is insufficient antecedent basis for this limitation in the claim. The applicants are suggested to delete the definition of D since it is already defined in claim 23.

Claim 30 recites the limitation "CR2, C=CR2 for the definition of variable Y" in claim 28.

There is insufficient antecedent basis for this limitation in the claim.

Claim 32 recites the limitation " spiro carbon atom for the definition of variable Y" in claim 31. There is insufficient antecedent basis for this limitation in the claim.

### ***Conclusion***

6. Objection of claims 23-28, 30-34 and 36-43 for containing non-elected subject matter is maintained for the reasons of record.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charanjit S. Aulakh whose telephone number is (571)272-0678. The examiner can normally be reached on Monday through Friday, 8:30 A.M. to 5:00 P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Janet Andres can be reached on (571)272-0867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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/Charanjit S. Aulakh/  
Primary Examiner, Art Unit 1625